

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ECHO WARD and RALPH P. WARD

Plaintiffs,

v.

**NOTICE OF REMOVAL**

WAL-MART STORES, INC. and  
WAL-MART STORES EAST, INC.

Index №.

Defendants.

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**PLEASE TAKE NOTICE** that Defendants Wal-Mart Stores, Inc. and Walmart Stores East, Inc. (hereinafter “Removing Defendants”), by their attorneys, Bennett Schechter Arcuri & Will LLP, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal of the action styled *Echo Ward and Ralph P. Ward, Plaintiffs, versus Wal-Mart Stores, Inc. and Wal-Mart Stores East, Inc., Defendants*, Index №. 2020-0198CV (the “Action”), from the Supreme Court of the State of New York, County of Steuben, to the United States District Court for the Western District of New York.

In support thereof, Removing Defendants state:

1. On or about February 12, 2020, Plaintiffs Echo Ward and Ralph P. Ward (hereinafter, “Plaintiffs”) commenced the Action by filing a Summons and Complaint in the Supreme Court of the State of New York, County of Steuben, against Defendants Wal-Mart Stores, Inc. and Wal-Mart Stores East, Inc. A copy of the Summons and Complaint is attached hereto and incorporated herein by reference as **Exhibit A**.

2. On May 12, 2020, the Removing Defendants appeared in the Action by serving their Answer, a copy of which is attached hereto and incorporated herein by reference as **Exhibit**

**B.**

3. On October 26, 2020, Removing Defendants received Plaintiffs' Article 31 Responses, dated October 23, 2020, seeking Two Hundred and Fifty Thousand Dollars (\$250,000.00) in damages in this action, a copy of which is attached as **Exhibit C**.

4. According to Plaintiffs' Complaint, Plaintiff Echo Ward is an individual domiciled in the State of New York and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New York. *See Ex. A.*

5. According to Plaintiffs' Complaint, Plaintiff Ralph P. Ward is an individual domiciled in the State of New York and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New York. *See Ex. A.*

6. Defendant Wal-Mart Stores, Inc. is now known as Walmart Inc. f/k/a Wal-Mart Stores, Inc. and is a corporation organized under the laws of the State of Delaware, with a principal place of business in the State of Arkansas and, therefore, for the purposes of this Notice of Removal, is a citizen of the States of Delaware and Arkansas.

7. Defendant Wal-Mart Stores East, Inc. is now known as Wal-Mart Stores East, LLC. f/k/a Wal-Mart Stores East, Inc., which is a limited liability company organized under the laws of the State of Arkansas. The sole member of Wal-Mart Stores East, LLC is Walmart Inc., which is a corporation organized under the laws of the State of Delaware with a principal place of business located in Arkansas. Therefore, for the purposes of this Notice of Removal, Defendant Wal-Mart Stores East, LLC, incorrectly sued as Wal-Mart Stores East, Inc., is a citizen of the States of Delaware and Arkansas

8. This Court has original subject matter jurisdiction over the Action pursuant to 28 U.S.C. §§1332(a) and 1441(b), because (a) there is complete diversity of citizenship among the

parties; (b) the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00) exclusive of interest and costs; and (c) none of the parties in interest who are properly joined and served as Defendants are citizens of New York State. The Action may, therefore, be removed pursuant to 28 U.S.C. § 1441(b).

9. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(3) and (c), because it is filed within thirty (30) days after receipt by the Removing Defendants of Plaintiffs' Article 31 Responses (the other paper from which it was first ascertainable that the case is removable), and within one (1) year of commencement of the Action.

10. Pursuant to 28 U.S.C. §1446(b)(2), all Defendants who have been properly joined and served join in and consent to the removal of the Action.

11. Pursuant to 28 U.S.C. §1441(a), removal venue exists in the United States District Court for the Western District of New York because the Supreme Court, Steuben County (the Court in which the Action was originally filed) is within the jurisdiction of the Western District of New York.

12. Pursuant to 28 U.S.C. §1446(a), all process, pleadings, and orders served to date upon the Removing Defendants are appended hereto. Pursuant to Local Rule 81(a)(3), an index of all documents filed in the state court action is attached hereto as **Exhibit D**.

13. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being served upon the Plaintiffs and is being filed with the Clerk of the Supreme Court, Steuben County. *See* Notice of Filing of Notice of Removal, with Affidavit of Service, attached hereto as **Exhibit E**.

14. Removing Defendants reserve the right to amend or supplement this Notice of Removal.

WHEREFORE, Removing Defendants requests that the case styled *Echo Ward and Ralph P. Ward, Plaintiffs, versus Wal-Mart Stores, Inc. and Wal-Mart Stores East, Inc., Defendants*, Supreme Court of the State of New York, County of Steuben, Index №. 2020-0198CV, be removed to this Court, and that this Court take subject matter jurisdiction over this Action.

Dated: Buffalo, New York  
November 5, 2020

Yours, etc.,

*/s/ Pauline C. Will*

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